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In re Application of
ROSEWICZ (Deceased)
Application No.: 10/593,533
PCT No.: PCT/EP05/03161
Int. Filing Date: 24 March 2005
Priority Date: 26 March 2004
Attorney Docket no.: 833.1005
For: USES OF GALECTIN-2

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DECISION ON

REQUEST

UNDER 37 CFR 1.42

This is a decision on applicant's submission filed in the United States Patent and Trademark Office (USPTO) on 14 June 2007 and treated as a request under 37 CFR 1.42.

BACKGROUND

On 19 September 2006, applicant filed a transmittal letter requesting entry into the U.S. national stage for international application PCT/EP05/03161, along with an executed declaration to satisfy the requirements of 35 U.S.C. 371 that an oath or declaration of the inventors be furnished. The declaration which was signed by inventors Axel Dignass and Andreas Sturm and by the heir for deceased inventor Stefan Rosewicz including their respective country of citizenship, residency and mailing address.

On 16 April 2007, a decision was mailed to applicant indicating that the declaration was unacceptable and did not comply with 37 CFR 1.497.

On 14 June 2007, applicant filed a "Response to Decision on Request under 37 CFR 1.42".

DISCUSSION

37 CFR 1.497(a)(3) requires that the *declaration identify each inventor and the country of citizenship of each inventor*. 37 CFR 1.497(b)(2) requires the declaration to state the relationship of the person (under 37 CFR 1.42) making the declaration for a deceased inventor. 37 CFR 1.497(b)(2) further states that, if the person signing the oath or declaration is the legal representative (heir) of a deceased inventor, the oath or declaration must state that the person is a legal representative (heir) and indicate the citizenship, residency and mailing address of the legal representative (heir). The declaration must also state the citizenship, residency and last mailing address of the deceased inventor to comply with 37 CFR 1.497(a)(3).

The declaration submitted on 14 June 2007 does not satisfy 37 CFR 1.497(a) and (b). The declaration identifies only the deceased inventor and the sole heir of the deceased inventor,

which indicates that the deceased inventor was a sole inventor. It fails to identify the joint inventors and provide their respective country of citizenship, residency and mailing addresses along with that of the deceased inventor and the heir, for compliance with 37 CFR 1.497(a) and (b).

A new declaration must be provided which identifies all joint inventors, including the deceased inventor and the sole heir. The declaration, executed by the sole heir, must provide the citizenship, residency and mailing address of the joint inventors, the deceased inventor and the sole heir. The sole heir must be identified as such.

For the reasons stated above, a new declaration, executed by the sole heir, is required in compliance with 37 CFR 1.497 and 1.64. Accordingly, it is inappropriate, at this time, to accord the application status under 37 CFR 1.42.

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is **DISMISSED WITHOUT PREJUDICE**.

The declaration by the legal representative for deceased inventor Stefan Rosewicz submitted on 17 June 2007 cannot be accepted as a proper declaration under 37 CFR 1.497(a) and (b) at this time.

Applicants are required to submit a new declaration executed by the legal representative for deceased inventor Stefan Rosewicz **TWO (2) MONTHS** from the mail date of this decision.

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



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